

# Suspensions (Short Term Removals)

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Short term suspensions, appropriate interim alternative settings or other settings may be ordered for not more than 10 school days (to the extent such alternatives would be applied to children without disabilities) Section 1415(k)(1)(A)(I)

## **IDEA Entitlement to Free and Appropriate Public Education Provisions:**

School personnel may order a change in placement of a child with a disability to an appropriate interim alternative educational setting, another setting, or suspension, for not more than 10 school days (to the extent such alternatives would be applied to children without disabilities). In such a case, a public agency need not provide services for 10 school days or less if services are not provided to a child without disabilities who is similarly removed.

## **Change in Placement (Suspension Related Issue)**

### **A Change in Placement Occurs If--**

1. The removal is for more than 10 consecutive school days; or
2. The child is subjected to a series of removals that constitute a pattern because they cumulate to more than 10 days in a school year and because of factors such as
  - length of each removal,
  - total amount of time the child is removed,
  - proximity of the removals to one another (Section 519)

“It is also extremely important to keep in mind that the provisions of the statute and regulation concerning the amount of time a child with a disability can be removed from his or her regular placement for disciplinary reasons are only called into play if the removal constitutes a change of placement and the parent objects to proposed action by school officials (or objects to a refusal by school officials to take an action) and requests a due process hearing.”

(March 12, 1999 Federal Register, Page 12414)

**Interpretation---Suspensions can be for more than 10 cumulative days in a year (but never for more than 10 consecutive days) without being deemed a “change in placement” if they don’t constitute a pattern. If the parent objects and requests a due process hearing, the suspensions will be reviewed to see if there was a pattern. In California, students without disabilities can be suspended for a maximum of 20 cumulative days. Therefore, suspension past 20 cumulative days would likely be viewed as discriminatory, even if FBAs and all other components were enacted.**

## Extent of Service Needs (Disciplinary Context)

In the case of a child with a disability who has been removed from his or her current placement for more than 10 school days in that school year, the public agency, for the remainder of the removals, must--

Provide services to the extent necessary to enable the child to appropriately progress in the general curriculum and appropriately advance toward achieving the goals set out in the child's IEP, if the removal is---

Under the school personnel's authority to remove for not more than 10 consecutive school days as long as that removal does not constitute a change of placement (Section 122(d)(2)).

### **Providing F.A.P.E. - Situation One**

*A suspension will be for more than 10 consecutive days, is not a change in placement, does not constitute a pattern and the student has already exceeded 10 cumulative days in the school year:*

***School personnel under authority to suspend (e.g., principal or designee), in consultation with the child's special education teacher,*** determine the extent to which services are necessary to enable the child to appropriately progress in the general curriculum and appropriately advance toward achieving the goals set out in the child's IEP if the child is removed under the authority of school personnel to remove for not more than 10 consecutive school days as long as that removal does not constitute a change of placement.

### **Providing F.A.P.E. - Situation Two**

*A disciplinary action will constitute a change of placement, and is for a behavior that has been determined not to be a manifestation of the child's disability:*

***The child's IEP team*** determines the extent to which services are necessary to enable the child to appropriately progress in the general curriculum and appropriately advance toward achieving the goals set out in the child's IEP if the child is removed because of behavior that has been determined not to be a manifestation of the child's disability, if the disciplinary action constitutes a change of placement. (Section 121(d)(3))